

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JEFFREY S. NEDD,

Petitioner,

v.

LANDON BIRD,

Respondent.

Case No. 1:22-cv-00704-HBK (HC)

ORDER DENYING PETITIONER'S  
MOTION FOR DISCOVERY

(Doc. No. 13)

Petitioner Jeffrey S. Need ("Petitioner"), a state prisoner proceeding pro se, filed a petition for writ of habeas corpus under 28 U.S.C. § 2254 on June 10, 2022. (Doc. No. 1, "Petition"). On December 5, 2022, Petitioner filed a pleading entitled "Notice and Subpoena – Questions for Oral Deposition." (Doc. No. 13). The Supreme Court has instructed federal courts to liberally construe the "inartful pleading[s]" of pro se litigants. *See Boag v. MacDougall*, 454 U.S. 364, 365 (1982). Thus, the Court construes Petitioner's "Notice and Subpoena – Questions for Oral Deposition" as a motion for discovery.

Although discovery is available pursuant to Rule 6 of the Rules Governing Section 2254 cases, it is granted only at the Court's discretion, and upon a showing of good cause. *Bracy v. Gramley*, 520 U.S. 899, 904 (1997) ("Parties in habeas cases, unlike those in ordinary civil cases,

1 have no right to discovery.”); *Jones v. Wood*, 114 F.3d 1002, 1009 (9th Cir. 1997). Here,  
2 Respondent’s motion to dismiss the Petition as untimely is currently pending before the Court  
3 (Doc. No. 8); thus, Petitioner’s construed motion for discovery will be denied without prejudice  
4 as premature. In the event Respondent is ordered to respond to the Petition, Petitioner may renew  
5 his motion upon a showing of good cause once the matter is fully briefed. Similarly, if the Court  
6 determines that a status conference is warranted after reviewing the completed briefing, it will  
7 schedule one at that time. *See* Rules Governing Section 2254 Cases, R. 8(a).

8 Accordingly, it is **ORDERED**:

9 Petitioner’s construed Motion for Discovery (Doc. No. 13) is DENIED.

10  
11 Dated: December 13, 2022

  
HELENA M. BARCH-KUCHTA  
UNITED STATES MAGISTRATE JUDGE